



Billing Code 3720-58

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, SUPSHIP Bath Maine Detachment Mobile at AUSTAL, USA, Mobile, AL; restricted area.

AGENCY: U.S. Army Corps of Engineers, DoD

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to amend an existing restricted area to reflect changes in responsible parties for the restricted area around the AUSTAL, USA shipbuilding facility located in Mobile, Alabama. The Supervisor of Shipbuilding, Conversion and Repair, United States Navy (USN), Gulf Coast (SUPSHIP Gulf Coast) assumed the duties of administering new construction contracts at AUSTAL USA in Mobile, Alabama, on October 9, 2011, replacing Supervisor of Shipbuilding, Conversion, and Repair, USN, Bath (SUPSHIP Bath). Therefore, the Department of the Navy has requested an amendment to the regulation to reflect the change in responsible parties. There are no other changes proposed for this restricted area.

DATES: Written comments must be submitted on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESS: You may submit comments, identified by docket number COE-2011-0034, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

E-mail: david.b.olson@usace.army.mil . Include the docket number COE-2011-0034 in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW-CO (David B. Olson), 441 G Street NW, Washington, DC 20314-1000.

Hand Delivery / Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE-2011-0034. All comments received will be included in the public docket without change and may be made available on-line at <http://regulations.gov> , including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through regulations.gov or e-mail. The regulations.gov web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to the Corps without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be

able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov . All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, D.C. at 202-761-4922 or Mr. Donald E. Mroczko, U.S. Army Corps of Engineers, Mobile District, at 251-690-3185.

SUPPLEMENTARY INFORMATION: The Supervisor of Shipbuilding, Conversion and Repair (SUPERVISOR), USN, Gulf Coast (SUPSHIP Gulf Coast) assumed the duties of administering new construction contracts at AUSTAL USA in Mobile, Alabama, on October 9, 2011, replacing Supervisor of Shipbuilding, Conversion, and Repair, USN, Bath (SUPSHIP Bath). The SUPERVISOR is responsible for United States Navy shipbuilding activities at AUSTAL, USA located in Mobile, Alabama. In accordance with Department of Defense and Department of the Navy guidance, the SUPERVISOR is responsible for the antiterrorism efforts and force protection of Department of the Navy assets under his or her charge. As such, the restricted area was established on September 22, 2009 (see 74 FR 48151). There are no proposed changes to the boundaries of the restricted area.

In response to a request by the United States Navy, and pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3), the Corps is proposing to amend the regulation at 33 CFR 334.782 by changing the responsible party from SUPSHIP Bath to SUPSHIP Gulf Coast.

Procedural Requirements

a. Review Under Executive Order 12866. This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act. This proposed rule has been reviewed under the Regulatory Flexibility Act (Public Law 96-354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). Unless information is obtained to the contrary during the public notice comment period, the Corps expects that the economic impact of the proposed rule would have practically no impact on the public or result in any anticipated navigational hazard or interference with existing waterway traffic. This proposed rule, if adopted, will not have a significant economic impact on small entities.

c. Review Under the National Environmental Policy Act. The Corps expects that the proposed rule will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered. After it is prepared, it may

be reviewed at the District office listed at the end of the FOR FURTHER INFORMATION CONTACT section, above.

d. Unfunded Mandates Act. The proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Public Laws 104-4, 109 Stat. 48, 2 U.S.C. 1501 et seq.). We have also found under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this rulemaking.

List of Subjects in 33 CFR, Part 334

Danger Zones, Navigation (water), Restricted Areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR Part 334 as follows:

PART 334 – DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for 33 CFR part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Revise paragraphs (b) and (c) of § 334.782 to read as follows:

§ 334.782 SUPSHIP Gulf Coast, Pascagoula, MS Detachment Mobile, AL at AUSTAL,

USA, Mobile, AL; restricted area.

* * * * *

(b) The regulations: (1) All persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or Naval authority, vessels of the United States Coast Guard, and local or state law enforcement vessels, are prohibited from entering the restricted area without permission from the Supervisor of

Shipbuilding, Conversion and Repair, USN, Gulf Coast, Pascagoula, MS or his/her authorized representative.

(2) The restricted area is in effect twenty four hours per day and seven days a week (24/7).

(3) Should warranted access into the restricted navigation area be needed, all entities are to contact the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf Coast, Pascagoula, MS, or his/her authorized representative on Marine Communication Channel 16.

(c) Enforcement: The regulation in this section shall be enforced by the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf Coast, Pascagoula, MS and/or such agencies or persons as he/she may designate.

Dated: __November 29, 2011

Michael G. Enschede

Chief, Operations and Regulatory

Directorate of Civil Works

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